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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,000	02/14/2002	Pascal Agin	Q68412	6662

23373 7590 06/07/2005

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EXAMINER
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APPIAH, CHARLES NANA

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/074,000

**Applicant(s)**

AGIN, PASCAL

**Examiner**

Charles Appiah

**Art Unit**

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

### ***Double Patenting***

2. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent Publication No. 2002/0119784 (Application No. 10/073,950). Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the claims of the instant application are broad enough and are encompassed by the limitations of the claims of the patent publication and as such it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the claims of the patent publication for managing processing resources in a mobile radio system.

3. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent Publication No. 2004/0053597 (Application No. 10/250,990). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are broad enough to read on the claims of the patent publication and as such it would have been obvious to one of ordinary skill in the art to implement the invention of the instant application using the claims of the patent publication for managing processing resources in a mobile radio system.

1. Claims 1-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/466,058. Although the conflicting claims are not identical, they are not patentably distinct from each other because the features of the claims of Application No. 10/466,058 are broad enough to be encompassed by the claims of the instant application and as such it would have been obvious to one of ordinary skill in the art to implement the claims of the Application No. 10/466,058 using the claims of the instant application in order to effectively manage processing resources of a mobile radio system.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Andersson et al. (6,434,380) discloses a telecommunication system having capacity resources management system wherein the resources include such capabilities as transmission power, spreading code, bit rate, etc.

"[European Telecommunications Standards Institute: Technical Specification –Universal mobile Telecommunications System (UMTS); UTRAN Iub Interface NBAP Signaling (3G TS 25.443 version 3.2.0. Release 1999)" ETSI TS 125 433 V3.2.0, June 2000 XP002166441] (ETSI-TS).

Minn et al. « Dynamic Assignment of Orthogonal Variable-Spreading-Factor Codes in W-CDMA discloses an optimal dynamic code assignment scheme using variable spreading factor codes.

Aksentijevic et al. (6,738,624) discloses a system for processing capacity reporting in a mobile telecommunications network that includes the use of spreading factor as a capacity parameter

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Appiah whose telephone number is 571 272-7904. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CA

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**

Application/Control Number: 10/074,000

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